

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

MELISSA NARY,

Plaintiff,

v.

CIVIL ACTION NO. 5:07-cv-00319

MILLENNIUM PHARMACEUTICALS,

Defendant.

**ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Proposed Findings and Recommendation of United States Magistrate Judge R. Clarke VanDervort. By Standing Order (Document No. 3) entered on May 18, 2007, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).


On November 9, 2009, the Magistrate Judge submitted Proposed Findings and Recommendation (Document No. 4) wherein it is recommended that this Court DENY Plaintiff's Application to Proceed Without Prepayment of Fees and Costs (Document No. 2) and DISMISS Plaintiff's Complaint (Document No. 1). Objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation were due within thirteen (13) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b)(2). No objections have been filed.

Upon careful consideration of the proposed findings and recommendations and the entire record, the Court does hereby **ADOPT** and incorporate herein the findings of the Magistrate Judge.

Further, pursuant to 28 U.S.C. 1915(e)(2)(B)(ii), the Court does hereby **DISMISS** Plaintiff's Complaint (Document No. 1) without prejudice for failing to state a claim sufficient to support subject matter jurisdiction. Accordingly, Plaintiff's Application to Proceed Without Prepayment of Fees and Costs (Document No. 2) is **DENIED AS MOOT**. The Court **ORDERS** this matter removed from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER:        MARCH 16, 2010

  
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IRENE C. BERGER, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA